

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ENTROPIC COMMUNICATIONS, LLC,

Plaintiff

v.

CHARTER COMMUNICATIONS, INC.,

Defendant.

Civil Action No. 2:22-cv-00125-JRG

**JURY TRIAL DEMANDED**

**CHARTER COMMUNICATIONS, INC.'S OPPOSITION TO PLAINTIFF ENTROPIC  
COMMUNICATIONS, LLC'S MOTION FOR SUMMARY JUDGMENT OF NO  
UNCLEAN HANDS DEFENSE**

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**I. INTRODUCTION AND SUMMARY OF THE ARGUMENT<sup>1</sup>**

Charter opposes Entropic's Motion for Summary Judgment of No Unclean Hands Defense (Dkt. 180, "Mot.") as there remain genuine issues of material fact concerning whether the asserted patents are unenforceable against Charter because [REDACTED] breached its implied covenant of good faith and fair dealing and had unclean hands when it assigned the asserted patents to Entropic.

**II. CHARTER'S RESPONSE TO ENTROPIC'S STATEMENT OF ISSUES**

Charter agrees with Entropic's recitation of the issues to be decided by the Court.

**III. CHARTER'S RESPONSE TO ENTROPIC'S STATEMENT OF UNDISPUTED FACTS**

1. Disputed as incomplete. Charter's witness stated [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] " [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

2. Disputed as incomplete. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3–7. Undisputed.

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<sup>1</sup>Emphasis is added herein, unless specified otherwise.

<sup>2</sup> Exhibits A–C were filed with Entropic's opening motion (Dkt. 180).

<sup>3</sup> "Ex." refers to Exhibits to the Declaration of Elizabeth Long In Support Of Charter's Opposition To Entropic's Motion For Summary Judgment Of No Unclean Hands Defense, filed herewith.

8. Disputed as incomplete. Charter's witness stated "[REDACTED]

[REDACTED] (Ex. D at 190:17–22.)

9. Disputed as incomplete. [REDACTED]

10–11. Undisputed.

12. Disputed as incomplete. The basis for Charter's defense of unclean hands is that

13. Disputed as incomplete. [REDACTED]

14. Disputed as incomplete. [REDACTED]

#### **IV. ADDITIONAL UNDISPUTED MATERIAL FACTS**

A. [REDACTED]

1. [REDACTED]

2.

[REDACTED]

3.

[REDACTED]

4.

[REDACTED]

5.

[REDACTED]

6.

[REDACTED]

7.

[REDACTED]

8.

[REDACTED]

[REDACTED]

[REDACTED]

9. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. [REDACTED]

[REDACTED]

[REDACTED]

11. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED])

12. [REDACTED]

[REDACTED]

[REDACTED]

13. [REDACTED]

[REDACTED]

[REDACTED]

14. [REDACTED]

[REDACTED]

[REDACTED]

15. [REDACTED]

[REDACTED]

16. [REDACTED]

[REDACTED]

17. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

19. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20. [REDACTED]

[REDACTED]

[REDACTED]

21. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22. [REDACTED]

[REDACTED]

23. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25. [REDACTED]

[REDACTED]

**B. Charter and** [REDACTED]

26. [REDACTED]

27. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **V. LEGAL STANDARD**

The unclean hands doctrine bars recovery “when misconduct of a party seeking relief has immediate and necessary relation to the equity that he seeks in respect of the matter in litigation.” *Gilead Scis., Inc. v. Merck & Co.*, 888 F.3d 1231, 1239 (Fed. Cir. 2018) (citation omitted). Pre-litigation business conduct and litigation misconduct are sufficient to invoke unclean hands,

*Gilead*, 888 F.3d at 1240–1247, and there is no materiality requirement for unclean hands, *Therasense, Inc. v. Becton, Dickinson & Co.*, 649 F.3d 1276, 1287 (Fed. Cir. 2011) (en banc).

## VI. ARGUMENT

### A. Charter Properly Relies on the Acts of [REDACTED]

Entropic argues that Charter [REDACTED] and improperly relies on acts of [REDACTED]. (Mot. at 4–6.) Charter’s allegations give rise to a plausible inference that its defense does not target the property right but the parties who committed the misconduct, including Entropic.

*First*, Entropic mischaracterizes Charter’s defense by arguing that its [REDACTED] [REDACTED] forms the basis of Charter’s unclean hands defense.” (Mot. at 6.) The basis for Charter’s defense is that [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] Resp. to SUF ¶ 12; Add’l Facts ¶¶ 1–23, 26–30; Dkt. 180-2.

*Second*, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] have not “acted fairly and without fraud or deceit as to the controversy at issue.” *Gilead*, 888 F.3d at 1239.

**B. Charter Points to Egregious Conduct to Support its Defense**

While Entropic alleges that Charter fails to articulate egregious facts for its unclean hands defense [REDACTED],” (Mot. at 6), Charter has pointed to egregious conduct by [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

Entropic's argument that "[REDACTED]"

[REDACTED]

[REDACTED]

[REDACTED]" misses the point. (Mot at 6.) It was not Charter's duty to inform [REDACTED] of its conduct and Entropic has cited no case law that supports this argument. Even so, while notice is not required, Charter's corporate witness testified that [REDACTED] [REDACTED]."*Id.* at ¶ 25.

## VII. CONCLUSION

For these reasons, Charter respectfully asks that the Court deny Entropic's motion for summary judgment of no unclean hands defense.

Dated: September 25, 2023

Respectfully submitted,

/s/ Daniel Reisner by permission Elizabeth Long

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document and all attachments thereto are being filed electronically in compliance with Local Rule CV-5(a). As such, this document is being served September 25, 2023, on all counsel of record, each of whom is deemed to have consented to electronic service. L.R. CV-5(a)(3)(A).

/s/ Elizabeth Long  
Elizabeth Long

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]